

FILED

MAR 26 2003

**BEFORE THE BOARD OF OIL, GAS & MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

**SECRETARY, BOARD OF
OIL, GAS & MINING**

IN THE MATTER OF THE PETITION OF
THE DIVISION OF OIL, GAS & MINING
FOR AN ORDER TO FORFEIT THE
RECLAMATION SURETY, AND FOR
AUTHORIZATION TO ENTER UPON
THE PRIOR REAL PROPERTY OF
MAGNESIUM CORPORATION OF
AMERICA ("MAGCORP, INC.") TO
PERFORM RECLAMATION AT THE
KNOLLS SOLAR EVAPORATION
PONDS, TOOELE COUNTY, UTAH

**MOTION TO WITHDRAW
REQUEST FOR AGENCY ACTION**

Docket No. 2002-004¹⁵

Cause No. M/045/022

The Division of Oil, Gas & Mining ("Division") moves the Board for leave to withdraw the Petition filed by the Division FOR AN ORDER TO FORFEIT THE RECLAMATION SURETY, AND FOR AUTHORIZATION TO ENTER UPON THE PRIOR REAL PROPERTY OF MAGNESIUM CORPORATION OF AMERICA ("MAGCORP, INC.") TO PERFORM RECLAMATION AT THE KNOLLS SOLAR EVAPORATION PONDS, TOOELE COUNTY, UTAH

Magnesium Corporation of America ("MagCorp") has filed bankruptcy (Case No. 01-14312 (REG)) in the United States Bankruptcy Court for the Southern District of New York. The bankruptcy is continuing with a trustee recently appointed at the request of creditors to pursue fraudulent conveyance claims. This petition before the Board has been continued from the originally scheduled hearing date of October 23, 2002 due to the objections of the Debtor, MAGCORP, to the Board hearing these proceedings absent a relief from the automatic stay imposed by the Bankruptcy court.

The Division's petition was originally continued from October 23, 2002 until January 23, 2003. Subsequently, due to inability to obtain relief through counsel at the Attorney General's

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Office, the matter was continued until March 26, 2003 and the Division engaged counsel in New York City to represent it as needed.

Notwithstanding these efforts, the Division has not obtained relief from the stay as of this date. Due to a petition by an *ad hoc* committee of creditors, a trustee has been appointed for the purposes of pursuing claims against the parent company of the bankrupt. Although it is likely that a hearing can be held within the next 30 days it is not certain, and due in part to the appointment of the trustee there is a possibility that the hearing may be delayed.

Rather than continue this matter further the Division moves to withdraw the petition without prejudice to its rights to re-file the matter. This withdrawal is not made pursuant to any agreement to limit the rights of the Division as a creditor in the above bankruptcy action; nor is it intended as a waiver, compromise, or abandonment of its rights in this action; rather, the Division reserves all rights it may have to recover from MagCorp, the surety, and the bankruptcy estate all costs, deficiencies, and expenses associated with the reclamation of the Knolls properties.

Therefore, due to the long delay between the filing of this matter and the time for hearing, and due to the potential for additional ^{time (dh)} ~~the~~ extensions, the Division moves the Board for leave to withdraw this request for agency action without prejudice, with the understanding that the matter will be re-filed when the bankruptcy stay is no longer an obstacle.

DATED this 25th day of March, 2003.

MARK L. SHURTLEFF
UTAH ATTORNEY GENERAL

A handwritten signature in dark ink, appearing to read "Steven F. Alder", is written over a horizontal line.

STEVEN F. ALDER
Assistant Attorney General
Attorneys for Division of Oil, Gas & Mining

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Withdrawal of Request for Agency Action was served by facsimile or by mail this 16th day of March, 2003, as follows:

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James Kohler, Branch Chief, Solid Minerals
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Utah State Office
324 South State Street
P.O. Box 45155
Salt Lake City UT 84145-0155



AMENDED CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing "Motion to Withdraw Request for Agency Action" was also served by mail this 26th day of March, 2003, to the following:

Gulf Insurance Company
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